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5 Presented on behalf of Plaintiff and  
6 Class Representative D. JACOBS

7

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **WESTERN DIVISION**

11 **PEOPLE OF CITY OF LOS**  
12 **ANGELES WHO ARE UN-HOUSED,**  
13 **AS A CLASS REPRESENTED BY D.**  
14 **JACOBS**, as representative of a class of  
15 unhoused persons who reside and resided  
in the streets and on the sidewalks of the  
City of Los Angeles,

16 Plaintiff,

17 v.

18 **KAREN BASS, ERIC MICHAEL**  
19 **GARCEtti, PAUL KREKORIAN,**  
20 **ROBERT BLUMENFIELD, NITHYA**  
21 **RAMAN, KATY YAROSLAVSKY,**  
22 **IMELDA PADILLA, MONICA**  
23 **RODRIGUEZ, MARQUEECE-**  
24 **HARRIS-DAWSON, JOHN LEE,**  
25 **CURREN PRICE, HEATHER HUTT,**  
26 **TRACI PARK, HUGO SOTO-**  
27 **MARTINEZ, KEVIN DE LEON, TIM**  
28 **Mc OSKER, MONIQUE**  
**CONTRERAS, "DOE" BROWN.**

2:24-cv-09320-DOC(MAAx)

**FIRST AMENDED COMPLAINT**

(To Address City of Los Angeles-  
Practiced, Negative Eugenics<sup>2</sup> and  
Nazi-Like Conduct, Against the Poor  
and the Mentally-Disabled People, Civil  
Rights Violations, and Damages)

**CLASS ACTION ALLEGATIONS**

**JURY DEMAND**

25 \_\_\_\_\_  
26 <sup>1</sup> All named defendants, except Garcetti and Brown, were served with the original  
27 summons and complaint (but did not respond to it), therefore they are parties to  
28 this action, and they need not be served with the summons to be issued on this  
First Amended Complaint, and if they do not respond to it within the prescribed  
time, plaintiff will request that the clerk enter their defaults.

1                   **ONE HUNDRED UNKNOWN  
2                   NAMED DEFENDANTS, 1-100,**

3                   Defendants.

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5                   Plaintiff makes the following allegations, on behalf of himself and of  
6 putative class members, in support of the this first amended complaint, and to  
7 redress and to punish defendants' Nazi-Like and fascistic, wrongful conduct, in  
8 harassing him by preventing and punishing him for sleeping on a Venice sidewalk,  
9 and seizing, retaining, and refusing to return to him, his personal property, in  
10 which he lived and other personal items. This FAC is not based solely on any  
11 ordinance and is based on the U.S. Constitution.

12                   **JURISDICTION, PARTIES, AND VENUE**

13                   1. Plaintiff, **D. JACOBS**, asserts federal claims, under 42 U.S.C. § 1983  
14 (civil rights), against defendants, subject matter jurisdiction lies pursuant to 28  
15 U.S.C. § 1331 of these federal claims.

16                   2. The matters that are the bases for this action occurred in Los Angeles  
17 County, California, and in the City of Los Angeles, and therefore venue lies in the  
18 United States District Court for the Central District of California, and in its  
19 Western Division, pursuant to 28 U.S.C. § 1391.

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23                   2 "Negative Eugenics" is the mildest term that could be used to describe  
24 defendants' wrongful conduct: both quasi-ethnic cleansing and quasi-genocide  
25 accurately could be used.

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1           3. Plaintiff is a member of the class of un-housed persons<sup>3</sup> who lived or live  
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3           <sup>3</sup> Federal law defines the terms "homeless" or "homeless individual" or "homeless  
4           person" to include:

- 5           (1) an individual or family who lacks a fixed, regular, and adequate  
6           nighttime residence;  
7           (2) an individual or family with a primary nighttime residence that is a  
8           public or private place not designed for or ordinarily used as a regular  
9           sleeping accommodation for human beings, including a car, park,  
10           abandoned building, bus or train station, airport, or camping ground;  
11           (3) an individual or family living in a supervised publicly or privately  
12           operated shelter designated to provide temporary living arrangements  
13           (including hotels and motels paid for by Federal, State, or local government  
14           programs for low-income individuals or by charitable organizations,  
15           congregate shelters, and transitional housing);  
16           (4) an individual who resided in a shelter or place not meant for human  
17           habitation and who is exiting an institution where he or she temporarily  
18           resided;  
19           (5) an individual or family who--  
20           (A) will imminently lose their housing, including housing they own, rent, or  
21           live in without paying rent, are sharing with others, and rooms in hotels or  
22           motels not paid for by Federal, State, or local government programs for low-  
23           income individuals or by charitable organizations, as evidenced by--  
24           (i) a court order resulting from an eviction action that notifies the individual  
25           or family that they must leave within 14 days;  
26           (ii) the individual or family having a primary nighttime residence that is a  
27           room in a hotel or motel and where they lack the resources necessary to  
28           reside there for more than 14 days; or  
29           (iii) credible evidence indicating that the owner or renter of the housing will  
30           not allow the individual or family to stay for more than 14 days, and any  
31           oral statement from an individual or family seeking homeless assistance that  
32           is found to be credible shall be considered credible evidence for purposes of  
33           this clause;  
34           (B) has no subsequent residence identified; and  
35           (C) lacks the resources or support networks needed to obtain other  
36           permanent housing . . . .

1 on the streets and sidewalks of the City of Los Angeles, and who number in the  
2 tens of thousands (about 45,000), without shelter, and whose property, including  
3 their tents, and belongings were stolen and never returned by defendants; and  
4 defendants are **KAREN BASS**, who is the Mayor of the City of Los Angeles,  
5 **ERIC MICHAEL GARCETTI**, was City of Los Angeles' mayor from 2012 to  
6 2020; **PAUL KREKORIAN, ROBERT BLUMENFIELD, NITHYA RAMAN,**  
7 **KATY YAROSLAVSKY, IMELDA PADILLA, MONICA RODRIGUEZ,**  
8 **MARQUEECE-HARRIS-DAWSON, JOHN LEE, CURREN PRICE,**  
9 **HEATHER HUTT, TRACI PARK, HUGO SOTO-MARTINEZ, KEVIN DE**  
10 **LEON**, and **TIM McOSKER**, who are City of Los Angeles City Council  
11 members; **MONIQUE CONTRERAS** and "**DOE**" **BROWN**, who are LAPD  
12 thugs; and the **UNKNOWN NAMED DEFENDANTS**, whose true identities  
13 presently are unknown, who participated in the wrongful acts alleged hereinbelow,  
14 and whose conduct is culpable, and whose unknown names will be replaced by  
15 their true identities when those true identities are learned, or are persons and/or  
16 entities whose true names presently are unknown, and who engaged in some  
17 conduct that is culpable with respect to plaintiff, as set forth hereinbelow. All  
18 defendants engaged in the same conduct by participating in, facilitating, and  
19 making the decisions to enact and to enforce anti-unhoused ordinances, to post  
20 Zone ordinances signs as set forth hereinbelow, and who, specifically in this  
21 action, were responsible for the negative actions of which the plaintiff complains.  
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42 U.S.C. §11302(a). Plaintiff and class members are within the definition of this section, and choose to call themselves "un-housed," because "homeless" has become a pejorative term.

1       4. Defendants each and all are sued in their individual capacities, and, for  
2 the claims made under *Monell v. Dep't of Soc. Svcs. of the City of New York*, 436  
3 U.S. 657 (1978), all defendants are sued only in their official capacities.

4       5. Plaintiff resides on a sidewalk on Main Street, in Venice Beach,  
5 California.

6       6. City of Los Angeles Municipal Code § 41.18 provides as follows:  
7 **SEC. 41.18. SITTING, LYING, OR SLEEPING OR STORING, USING,**  
8 **MAINTAINING, OR PLACING PERSONAL PROPERTY IN THE PUBLIC**  
**RIGHT-OF-WAY.**

9       (Title and Section amended by Ord. No. 187,127, Eff. 9/3/21.)

10     (a) No person shall obstruct a street, sidewalk, or other public right-of-way:

11       (1) by sitting, lying, or sleeping, or by storing, using, maintaining, or placing  
12 personal property, in a manner that impedes passage, as provided by the  
13 Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328  
14 (1990), as amended from time to time;

15       (2) by sitting, lying, or sleeping, or by storing, using, maintaining, or placing  
16 personal property, within ten feet of any operational or utilizable driveway or  
17 loading dock;

18       (3) by sitting, lying, or sleeping, or by storing, using, maintaining, or placing  
19 personal property, within five feet of any operational or utilizable building  
20 entrance or exit;

21       (4) by sitting, lying, or sleeping, or by storing, using, maintaining, or placing  
22 personal property, within two feet of any fire hydrant, fire plug, or other fire  
23 department connection;

24       (5) by sitting, lying, or sleeping, or by storing, using, maintaining, or placing  
25 personal property, within the public right-of-way in a manner that obstructs or  
26 unreasonably interferes with the use of the right-of-way for any activity for which  
the City has issued a permit.

27       (b) No person shall obstruct any portion of any street or other public right-of-  
28 way open to use by motor vehicles, or any portion of a bike lane, bike path, or

1 other public right-of-way open to use by bicycles, by sitting, lying, or sleeping, or  
2 by storing, using, maintaining, or placing personal property, anywhere within the  
3 street, bike lane, bike path, or other public right-of-way, as specified.

4 (c) Except as limited by Subsection (d), no person shall:

5 (1) sit, lie, sleep, or store, use, maintain, or place personal property, in or upon  
6 any street, sidewalk, or other public right-of-way within the distance stated on the  
7 posted signage (up to a maximum of 500 feet) of a property designated as a  
8 sensitive use. For a property to be designated as a "sensitive use", the property  
9 must be a Public Park, or Public Library, as those terms are defined in  
Section 105.01 of this Code; (Amended by Ord. No. 187,586, Eff. 9/18/22.)

10 (2) sit, lie, sleep, or store, use, maintain, or place personal property, in or upon  
11 any street, sidewalk, or other public right-of-way within the distance stated on the  
12 posted signage (up to a maximum of 500 feet) of a designated overpass,  
underpass, freeway ramp, tunnel, bridge, pedestrian bridge, subway, wash,  
spreading ground, or active railway, where the City Council determines, in the  
designating resolution, that the public health, safety, or welfare is served by the  
prohibition, including, without limitation, by finding that sleeping or lodging  
within the stated proximity to the designated area is unhealthy, unsafe, or  
incompatible with safe passage;

13 (3) sit, lie, sleep, or store, use, maintain, or place personal property, in or upon  
14 any street, sidewalk, or other public right-of-way, within the distance stated on the  
15 posted signage (up to a maximum of 1,000 feet) of a designated facility, opened  
after January 1, 2018, that provides shelter, safe sleeping, or safe parking to  
homeless persons, or that serves as a homeless services navigation center;

16 (4) sit, lie, sleep, or store, use, maintain, or place personal property, in or upon  
17 any street, sidewalk, or other public right-of-way that has been posted with  
signage prohibiting sitting, lying, sleeping, or storing, using, maintaining, or  
placing personal property. In order to designate a section of street, sidewalk, or  
other public right-of-way as prohibited under this subdivision, the City Council  
shall determine, in a designating resolution and based on specific documentation,  
that the circumstances of continued sitting, sleeping, lying, storing personal  
property, or otherwise obstructing the public right-of-way at that location poses a  
particular and ongoing threat to public health or safety. Such circumstances may  
include, but are not limited to: (i) the death or serious bodily injury of any person

1 at the location due to a hazardous condition; (ii) repeated serious or violent crimes,  
2 including human trafficking, at the location; or (iii) the occurrence of fires that  
3 resulted in a fire department response to the location. For each such location, a  
4 prohibition pursuant to this subdivision shall be effective for a period of time  
specified in the resolution, but not to exceed one year.

5 (d) No person shall be found to be in violation of any prohibition set forth in  
6 Subsection (c), unless and until: (i) the City Council has taken action, by  
7 resolution, to designate a specified area or areas for enforcement against sitting,  
8 lying, sleeping, or storing, using, maintaining, or placing personal property, or  
9 otherwise obstructing the public right-of-way; (ii) the City has posted signage at  
10 the designated area or areas set forth in the resolution, with such signage including  
11 reference to any required findings adopted in the resolution, and giving notice of  
12 the date after which no sitting, lying, sleeping, or storing, using, maintaining, or  
13 placing personal property, or otherwise obstructing the public right-of-way will be  
allowed; and (iii) at least 14 calendar days have passed from the date on which the  
signage is posted at the designated area or areas.

14 (e) No person shall sit, lie, sleep, or store, use, maintain, or place personal  
15 property, in or upon any street, sidewalk, or other public property within 500 feet  
16 of a School or Day Care Center as those terms are defined in Section 105.01 of  
17 this Code. A violation of this subsection is governed by Section 41.18(f) of this  
Code. (Added by Ord. No. 187,586, Eff. 9/18/22.)

18 (f) Violations of this section involving a person who willfully resists, delays, or  
19 obstructs a City employee from enforcing this section or who willfully refuses to  
20 comply after being requested to do so by an authorized City employee shall be  
subject to the penalties set forth in Los Angeles Municipal Code (LAMC)  
21 Section 11.00. All other violations of this section shall be enforceable only as  
22 infractions pursuant to LAMC 11.00(m) or issuance of a citation pursuant to City's  
23 Administrative Citation Enforcement Program pursuant to LAMC  
Section 11.2.01 *et seq.*

24 It is called the "sit/lie" Ordinance.

25 7. Defendants and each of them play and played some material role in the  
26 acts and/or omissions alleged hereinbelow and in the setting of policies and  
27 enforcement of City of Los Angeles ordinances, and/or in running and  
28 administering the City of Los Angeles Department of Public Works, and

1 Department of Public Works Bureau of Sanitation and Environment, and/or in the  
2 harassment of the un-housed people, like the plaintiff, who live on the streets, and  
3 in the confiscations, takings and stealings of their property, and in the wrongful  
4 conduct set forth hereinbelow.

5 **ALLEGATIONS COMMON TO EACH COUNT**

6       8. Each and every allegation set forth in each and every averment herein  
7 is incorporated by this reference, in each and every other averment and allegation  
8 of this pleading.

9       9. All acts and/or omissions perpetrated and/or engaged in by each  
10 defendant in their individual capacities were done maliciously, callously,  
11 oppressively, wantonly, recklessly, with deliberate indifference to the rights  
12 allegedly violated, despicably, with evil motive and/or intent, in disregard of the  
13 rights of plaintiff and class members, and in clear violation of the federal  
14 Constitution and of the California Constitution, and of controlling federal law,  
15 both statutory and common law, as set forth by both the United States Supreme  
16 Court and the United States Court of Appeals for the Ninth Circuit.  
17

18       10. The Fourth, Eighth (cruel and unusual punishments clause), and  
19 Fourteenth Amendments (due process and equal protection clause)s to the United  
20 States to the United States Constitution prohibit the threatening of and/or  
21 imposition of any penalties for merely being on, including sitting, sleeping, lying,  
22 on public property, for un-housed human beings who cannot obtain permanent  
23 shelter. The Fourth Amendment prohibits the seizures of unhoused persons'  
24 property. *See* Doc. 103 in No. 2:21-cv-06003-DOC(KESx), whose contents are  
25 incorporated herein.

26       11. Sitting, lying, and sleeping are defined as acts or conditions that are  
27 universal and unavoidable consequences of being human, and that are  
28

1 involuntary. Un-housed persons' ownership of their property also is a consequence  
2 of being human.

3       12. Human beings are biologically compelled to rest, whether by sitting,  
4 lying, or sleeping.

5       13. As a result, just as governments may not criminalize the state of being  
6 "homeless in public places," government may not "criminalize conduct that is an  
7 unavoidable consequence of being unhoused -- namely sitting, lying, or sleeping  
8 on the streets," or owning property, including shelter, while existing on the streets.

9       14. So long as there is a greater number of homeless individuals in the City  
10 of Los Angeles than the number of available beds in its shelters, which has for  
11 many years been, and presently is the case, the City of Los Angeles and defendants  
12 mayor, council members, commissioners, and administrators of the Department of  
13 Public Works Bureau of Sanitation and Environment, cannot threaten, extort,  
14 penalize, or prohibit, or threaten or attempt to do so, unhoused individuals, for  
15 involuntarily being in, sitting, lying, and sleeping on public property, or  
16 confiscating their property.

17       15. The City official defendants have been told this over, and over, and  
18 over, for at least 16 years, since 2006, in *Jones v. City of Los Angeles*, 444 F.3d  
19 118 (9th Cir. 2006), and again in 2014, in *Desertrain v. City of Los Angeles*, 754  
20 F.3d 1147 (9th Cir. 2014), all of whose contents are incorporated herein by this  
21 reference.

22       16. But none of these precedential rulings, all of which were and are binding  
23 on the City and all of its officials and employees, has had any effect on these  
24 officials' wrongful behavior. See "Using new law, L.A. City Council [all council-  
25 member defendants herein] bans homeless encampments at 54 spots," detailing  
26 that just five days before a complaint in one of the *Finley/Lockett* actions was  
27 filed, on Oct. 24, 2021, that on Oct. 19, 2021, defendants herein, the mayor, 12 of  
28 the City council members, and former City Attorney Feuer, yet again enacted

1 ordinances and counseled on the enactment of ordinances, to ban homelessness,  
2 the council members by a 12-2 vote.

3       17. As long as there is no option of sleeping indoors, and there is not, the  
4 City government and defendants may not criminalize indigent, unhoused, people  
5 for being outdoors, parking the vehicles in which they exist on City streets,  
6 sleeping outdoors, on public property, based on the false premise they these  
7 human beings had any choice in the matter, and, as of Feb. 7, 2025, there are  
8 45,252 homeless people in the City of Los Angeles.

9       18. Resisting the need to be somewhere, to eat, to sleep, or to engage in  
10 other life-sustaining activities is impossible. Avoiding public places, like  
11 sidewalks, when engaging in these otherwise innocent conducts is impossible: as  
12 long as the unhoused, street-sleeping plaintiff and class members do not have a  
13 place where they can lawfully be, the challenged ordinance, as applied to them,  
14 effectively punishes them for something for which they may not be convicted  
15 under the Eighth Amendment, and hence, the Fourteenth Amendment, to wit,  
16 being, sitting, lying down, sleeping, eating, and other innocent conduct, so that the  
17 challenged ordinance, both on its face and as applied against the homeless, are  
18 unconstitutional and unconstitutionally vague and overbroad.

19       19. The use of the City's ordinance to criminalize the simple acts of being  
20 outside on public property and sleeping on public property, when one has nowhere  
21 else she or he can be, they penalize the condition of being a human being, and, in  
22 that sense are prohibited status crimes.

23       20. A municipality and its officials may not lawfully or constitutionally  
24 criminalize such behavior, consistently with the Eighth Amendment, and hence the  
25 Fourteenth Amendment, when no sleeping spaces are practically available in a  
26 sufficient number of places and/or shelters.

27       21. So long as there is a greater number of unhoused individuals in the City  
28 of Los Angeles than the number of available beds in shelters, for the unhoused,

1 City of Los Angeles and defendants may not legally enforce ordinances against  
2 unhoused individuals, for involuntarily being, sitting, lying, and/or sleeping in any  
3 public place, and yet they stubbornly enforce their ordinances.

4       22. Ordinances violate the Eighth Amendment, and hence the Fourteenth  
5 Amendment, insofar as they impose cruel and unusual punishment sanctions  
6 against unhoused individuals, for being and/or lying down and/or sleeping  
7 outdoors, or parking their vehicles where all others legally are permitted to park,  
8 on public property, when no alternative shelter is available to them. *Martin*, as  
9 well as *Jones*, clearly and unequivocally state this, and it is binding on all  
10 defendants, who refuse to obey it, even though it incontrovertibly is the  
11 controlling and binding law.

12       23. There is no rational basis to prohibit or to punish homelessness, *see*  
13 Franz Kafka, *Before the Law*, in *Kafka: The Complete Stories* (Schocken, 1971)  
14 ("this gate was made only for you. I am now going to shut it."), at 4; *The Problem*  
15 *of Our Laws*, in *The Complete Stories*, at 437 ("the laws were made to the  
16 advantage of the nobles from the very beginning, they themselves are above the  
17 laws, and that seems to be why the laws were entrusted exclusively into their  
18 hands . . . ."), and persons who are similarly-situation must be treated alike, and  
19 defendants have acted with an intent and purpose based on plaintiff's and class  
20 members' membership in the class of the homeless, in violation of the Equal  
21 Protection Clause of the Fourteenth Amendment, and also have enforced  
22 selectively their laws against the homeless and not against others who are not  
23 homeless, all with no rational basis for such a discriminatory ordinance and its  
24 enforcement, as a pretext and with an impermissible motive.

25       24. To be clear, defendants' ordinance provides for and creates the false  
26 appearance of a proper function, when in fact and in reality it serves as a fictitious  
27 means for defendants to rid the City's streets and sidewalks of the unhoused, and  
28 to confiscate their property, as a means to just make them go away or disappear:

1 police and sanitation workers keep the homeless population off the sidewalks and  
2 streets and prevent them from sitting or lying down on public sidewalks and  
3 streets, as opposed to housed individuals, and this serves no legitimate  
4 government purpose, and is an attempt to sweep homeless people off the streets  
5 without providing them adequate shelter. The ordinance bans homeless people  
6 from ever sitting or lying down when the City has left them no alternative, as they  
7 lack any adequate shelter, housing, and places to rest or to go to the bathroom or  
8 to wash-up, all of which the City and its officials could provide, but yet they  
9 stubbornly refuse to provide, so that the selective ordinance against the homeless  
10 is based on an improper motive: as Bob Dylan once sang, "ban the bums." (Bob  
11 Dylan's "115th Dream," 1965),<sup>4</sup> the higher-up defendants use the Sanitation  
12 Department workers to clear away (steal) the unhoused's belongings, similarly to  
13 the way the Nazis used Jewish people as straw bosses<sup>5</sup> in the Nazi concentration  
14 and extermination camps, and the LAPD defendants, enforce this by "standing  
15 guard," like Heinrich Himmler's<sup>6</sup> *Geheime Staatspolizei* (the Gestapo), while the  
16  
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18 <sup>4</sup> The full lyric is: "I went to get some help, I walked by a Guernsey cow, Who  
19 directed me down to the Bowery slums, Where people carried signs around sayin'  
20 'Ban the bums,' I jumped right into line sayin' 'I hope that I'm not late,' When I  
21 realized I hadn't eaten for five days straight." (The Bowery is a north-south street  
22 on the east side of lower Manhattan, on which homeless people historically always  
23 have lived, though it now has become partly gentrified. It was the relentless object  
24 of former-Mayor Rudolph W. Giuliani's (1993-2001) (yet another fascist moron)  
so-called "quality of life" clean-up efforts, to ban the omni-present "squeegie  
men," who would try to earn money by cleaning the windshields of cars who  
stopped for the traffic lights, at the intersection of Bowery and Houston Streets.)

25 <sup>5</sup> A worker who has some responsibility, but little authority.

26 <sup>6</sup> The head of the *Schutzstaffel* (German for "Protection Squads," or "Protection  
27 Echelon," the "SS," self-described political soldiers) and the Third Reich's chief of  
28 police, from 1936 until his dismissal on May 6, 1945, just 17 days before his

1 Sanitation workers confiscate and steal the unhoused's property, taking it far away  
2 for "storage," to a place that the unhoused cannot reasonably reach, and then the  
3 property is thrown out. This is the principal means by which defendants attempt to  
4 rid the City of the unhoused, making it impossible for them to exist at all, with no  
5 tents for shelter, no sleeping gear, and often no personal belongings at all. It is  
6 inhumane, horrible, and brazenly fascistic.<sup>7</sup>

7 25. All of these actions by defendants were done intentionally, in concert,  
8 they are coordinated, conspiratorial, and were both attempts to do and the doing of  
9 things that constitute violations under both state and federal law, and which  
10 obstruct justice, all as set forth more fully herein, and defendants each and all had  
11 a meeting of the minds (used only in its legal sense) to do these things.

12 26. Defendants' actions are a form of government-sanctioned eugenics<sup>8</sup>, to  
13 alter, by government edict -- here, a parking an ordinance, a specific population  
14

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15 suicide on May 23, 1945, as a British prisoner, at an interrogation camp near  
16 Lüneberg, Germany.

17  
18 <sup>7</sup> Named for the "fasces," which was a bound bundle of wooden (often birch) rods,  
19 often including an axe, with its blade emerging, which was an Italian symbol that  
20 had its origin in the Etruscan civilization, and was passed on to ancient Rome,  
21 where it symbolized a magistrate's power and jurisdiction. Often, it is used as a  
22 representation of magisterial or collective power, law, and governance, and in  
23 Roman Times was held up, by a lector, as it was carried at front of processions in  
24 which a public official was walking. It became the emblem of Mussolini's National  
25 Fascist Party, which took its name from the emblem. Exhibit 1 hereto. Ironically, it  
is present on the reverse of the U.S. Mercury dime coin and behind the podium in  
the United States House of Representatives (whose authors probably were too  
ignorant to know its very negative significance).

26  
27 <sup>8</sup> "Eugenics" (/ju: 'dʒenɪks/ *yoo-JEN-iks*; from Greek εὖ- "good" and γενής "come  
28 into being, growing") is a set of beliefs and practices that aim to improve  
the genetic quality of a human population, historically, and here, by excluding  
people and and/or groups of people judged to be inferior, or promoting those

1 that is disfavored by society and by government -- the unhoused, like the Romani,  
2 or Roma peoples, in England and Continental Europe.

3       27. In general, negative eugenics is the practice of arranging a human  
4 population to increase or to decrease the occurrence of characteristics regarded as  
5 desirable or undesirable. Here, poverty -- the state of being poor -- is regarded by  
6 defendants as being an undesirable characteristic, and defendants' wrongful  
7 conduct as alleged herein is designed to decrease the visible manifestations and  
8 occurrences of this characteristic in public places. It is akin to the Nazis' and the  
9 *Geheime Staatspolizei*'s treatment of the Romani (gypsy) population, and the same  
10 treatment of the Romani by many countries in modern-day Europe.

11       28. The American negative eugenics movement was formed during the late  
12 Nineteenth Century and continued as late as the 1940s, and to a much lesser extent  
13 into the late 20th Century.<sup>9</sup> (Negative eugenics did not originate with the Nazis,  
14 as commonly is believed to the case: rather, *the Nazis got it from the Americans.*)

16 judged to be superior. In recent years, the term has seen a revival in bioethical  
17 discussions, on the usage of new technologies, such as CRISPR (a gene therapy  
18 technique) and genetic screening, with a heated debate on whether these  
19 technologies should be called eugenics or not.

20       <sup>9</sup> Many Americans, especially those born after the WWII, "Baby Boomers," and  
21 post-Baby Boomer generations, incorrectly believe that Stanford Univ. Professor  
22 William Bradford Shockley, Jr. was the father of eugenics. He was not. In the  
23 1970s, Shockley contended that a higher rate of reproduction among the less  
24 intelligent was having a dysgenic effect, and that a drop in average intelligence  
ultimately would lead to a decline in civilization. He also claimed that blacks were  
25 genetically inferior to whites, on an intellectual level -- a view held by the  
26 National Football League until June 2021, as a means for denying brain-damaged,  
27 Black, former players equal compensation to White players, in the brain damage  
class action settlement. (Shockley was a candidate for the Republican nomination  
28 in the 1982 United States Senate election in California. He ran on a single-issue  
platform of highlighting the "dysgenic threat" of some racial groups, including  
African-Americans, to American society.)

1 The American eugenics movement embraced negative eugenics, as a purported  
2 method of improving the human race, and was increasingly discredited as  
3 unscientific and racially-biased during the 20th Century, especially after the  
4 adoption of its doctrines by the Nazis (in order to justify their treatment of Jews,  
5 Romani, disabled people, the mentally ill, and other minority groups). Incredibly,  
6 eugenics was *not* invented by the Nazis, but rather was first employed by  
7 "scientists" in New York, principally Charles Benedict Davenport, a Brooklyn-  
8 born, Harvard biology professor, and misogynistic, who believed that race  
9 determined behavior. That is, the Nazis got eugenics from the Americans. It is  
10 important to recognize that, in America, eugenics was and is a movement used to  
11 reduce an undesired population -- as defendants here use their City of Los  
12 Angeles, subject ordinance to push racist, classist, and ableist ideas, rather than a  
13 movement that explicitly worked toward the improvement of the human race,  
14 against unhoused persons, who are "an undesired population." *See also*,  
15 involuntary sterilization, lobotomy, and William Sheldon's somatotyping, all  
16 also conceived and pioneered in America. The English-language term "eugenics"  
17 translates to "well-born," from the Greek word, "*eugenes*." Eugenics reinforces the  
18 prejudices of the time, by deeming those with desirable genetic traits, such as  
19 Whiteness, of higher economic status, and healthy, when, on the other hand, those  
20 with undesirable traits are identified as non-White, of lower economic status, or  
21 physically or mentally disabled.

22       29. Defendants are practicing modern-day, negative eugenics against  
23 plaintiff and class members. *See also LA Alliance for Human Rights v. City of Los*  
24 *Angeles*, 2:20-cv-02291-DOC(KESx), Doc. 227 (04/20/21).

25       30. Plaintiff and class members are un-housed persons who live in the  
26 streets of Los Angeles, on sidewalks and elsewhere, and whose property was  
27  
28

1 confiscated, and also were subjected to the seizing and throwing away their  
2 belongings.  
3

4 31. The subject ordinance sometimes is colloquially known as a "Zone"  
5 ordinance, because it establishes zones from which the unhoused are sought to be  
6 and are expelled.

7 32. Under the pretenses of "Health Hazard Removal" and "Comprehensive  
8 Street & Sidewalk Cleaning," other Zone ordinances' thinly-veiled purpose, and  
9 their actual effect, is to get unhoused persons off the streets and sidewalks of the  
10 City of Los Angeles, and out of everyone else's sight.

11 33. They dictate "Zone Boundaries," displayed as maps, and then dictate  
12 that, in those zones, there will be "Health Hazard Removal" on "Monday, Tuesday,  
13 Wednesday, & Friday," during which times City employees from the Sanitation  
14 Bureau, backed-up with thug-muscle by LAPD bullies, remove unhoused persons'  
15 belongings, including tents, sleeping gear, and other personal items, and that, on  
16 "Every Thursday, Between 7 am and 3pm" "During comprehensive cleaning no  
17 one will be allowed to remain on a sidewalk." Thus, under this type of ordinance,  
18 from Mondays through Fridays, City officials, sanitation workers, and thug-LAPD  
19 cops manage to keep all unhoused persons off the sidewalks and streets, and those  
20 who remain have all of their belongings stolen by the City and its employees.

21 34. Truly amazingly, as to any of the § 41.18 and the Zone ordinances that  
22 are not in Downtown Los Angeles, an un-housed person would have to travel to a  
23 City-operated facility with the Orwellian name of "The Bin," located at 507  
24 Towne Avenue, in zip code 90013, on Skid Row, to retrieve his or her stolen  
25 belongings, which is impossible to do, as plaintiff would have been forced to do if  
26 he could have walked from Venice Beach all the way to Downtown Los Angeles,  
27 and back to Venice Beach.  
28

1       35. In October, 2022, plaintiff was issued a citation to appear in a court in  
2 Beverly Hills, pursuant to § 41.18 by defendant Contreras, for living on the  
3 sidewalk on Main Street in Venice, and this violated plaintiff's constitutional  
4 rights, as set forth hereinbelow.

5       36. Previously, in 2021, plaintiff's tent in which he resided and all of his  
6 personal belongings were stolen under the supervision of defendant Contreras,  
7 pursuant to § 41.18.

8       37. Then, most recently, on Sept. 2, 2024, defendants Contreras and Brown  
9 accosted plaintiff with their nightsticks, who was asleep in his tent, at the corner of  
10 Main Street and Westminster Avenue, and where he still lives, and has lived for  
11 six years, used excessive force against plaintiff by battering him with nightsticks  
12 while he was asleep in his tent, and then, after he alighted from his tent, pursued  
13 him many blocks to the Venice Boardwalk (with an LAPD helicopter also in  
14 pursuit, and arrested plaintiff, with no probable cause to do so.

15       38. Plaintiff was charged by Contreras and Brown with violation of  
16 California Penal Code § 245(c), that provides as follows:

17  
18  
19       **245(c).** Any person who commits an assault with a deadly weapon or  
20 instrument, other than a firearm, or by any means likely to produce great  
21 bodily injury upon the person of a peace officer or firefighter, and who knows  
22 or reasonably should know that the victim is a peace officer or firefighter  
23 engaged in the performance of his or her duties, when the peace officer or  
24 firefighter is engaged in the performance of his or her duties, shall be  
25 punished by imprisonment in the state prison for three, four, or five years.

26       38. As a result of the making and pendency of this charge, plaintiff spent  
27 from Sept. 2, 2024 to Oct. 23, 2024 in penal custody, until Oct. 23.  
28

1           39. The charge against plaintiff was dismissed on Oct. 22, 2024, and  
2 plaintiff was released.  
3

4           40. All of plaintiff's belongings, including his clothing and his tent were lost  
5 as a result of what occurred.  
6

7           41.-99. Reserved.  
8

9           [Counts 1-18 were dismissed by the court in its Jan. 24, 2025 order of dismissal,  
10 but are included here, not as charging allegations, but to provide context.]  
11

#### COUNT 1

#### **(Fourteenth Amendment, Equal Protection Violations, against all defendants, in both their individual and official capacities, 42 U.S.C. § 1983)**

12           100. The Equal Protection Clause of the Fourteenth Amendment to the U.S.  
13 Constitution prohibits state action that discriminates against a suspect class of  
14 persons, and makes a state governmental unit responsible for the equal protection  
15 of its citizens, and provides that "nor shall any state . . . deny to any person within  
16 its jurisdiction the equal protection of the laws.  
17

18           100a. The Equal Protection Clause contains the right of the people to be  
19 exempt from unfriendly legislation, exemption from legal discriminations that  
20 imply an inferiority in civil society, and which lessen the enjoyment of rights  
21 which others enjoy.  
22

23           100b. Defendants' subject ordinances violated plaintiff's and class members'  
24 right to equal protection of the laws because it is legislation that is unfriendly to  
25 them, since it is aimed *only* at them and at no other class of persons, it subjects  
26 only them to legal discrimination -- indeed, it cannot be contested that it is only  
27 them against whom it discriminated, it implies their inferiority in civil society, and  
28 it lessens their enjoyment of rights which other human beings enjoy, and it caused  
the towing, impounding, and refusing to return plaintiff's RV to plaintiff.

100c. The subject ordinances create a near-blanket ban on sitting, lying, or sleeping in public and require homeless people to remain standing, which deprives them of the equal protection of the laws.

## COUNT 2

**(Monell Violations, against all defendants, in their official capacities, 42 U.S.C. § 1983)**

101. Defendants' wrongful conduct under of color of law occurred so that each defendant knowingly, grossly negligently, recklessly, and with deliberate indifference to the rights allegedly violated, caused to come into being, maintained, fostered, condoned, approved of, either before the fact or after the fact, ratified, and/or took no action to correct, and was the moving force, for an official policy, practice, procedure, or custom of permitting the occurrence of the categories of wrongs set forth in the immediately-preceding Count, and/or improperly, inadequately, with deliberate indifference to the constitutional or other federal rights of persons, grossly negligently, with reckless disregard to constitutional or other federal rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or to take corrective action with respect to themselves and/or their personnel with respect to the types of wrongful conduct alleged in this pleading, so that each one of them is legally responsible for all of the injuries and/or damages sustained by plaintiffs' and class members, pursuant to the principles set forth in *Monell v. Dep't of Social Services* and its progeny.

### COUNT 3

**(Conspiracy, against all defendants, in both their individual and official capacities 42 U.S.C. § 1983)**

102. All defendants and each of them understood and agreed, and had a meeting of the minds, that they all would act in combination in the manners described hereinabove and then overt acts were undertaken to carry out their schemes, here prohibiting plaintiff and class members from being on public

1 property, and confiscating and not returning plaintiff's and class members' stolen  
2 property.

3 **COUNT 4**

4 **(Fourteenth Amendment, Due Process Violations, against all defendants, in  
5 both their individual and official capacities, 42 U.S.C. § 1983)**

6 103. The Due Process Clause of the U.S. Constitution provides "nor shall  
7 any State deprive any person of life, liberty, or property, without due process of  
8 law . . . ."

9 103a. The defendants' behavior alleged herein is so egregious, so  
10 outrageous, that it fairly may be described as shocking to the conscience, and also  
11 it is arbitrary and capricious action by the government: it is an exercise of power  
12 without any reasonable justification or legitimate governmental purpose: plain and  
13 simple, it is government bullying of those who are least able to defend themselves;  
14 it violates the decencies of civilized conduct in a civilized society; it is brutal and  
15 offensive, and it does not comport with basic concepts of fair play and decency, so  
16 that it violates plaintiff's and class members' substantive due process rights,  
17 because it is the government using its vast power arbitrarily and oppressively. It  
18 deprives plaintiff and class members of property without due process of law, both  
19 procedurally and substantively.

20 103b. Defendants' conduct in enacting the anti-homeless ordinances and  
21 enforcing them against the homeless deprive the homeless of liberty and of  
22 property and thereby deny them both procedural and substantive due process of  
23 law under the Fourteenth Amendment Due Process Clause.

24 **COUNT 5**

25 **(*Monell* Violations, against all defendants, against all defendants, in their  
26 official capacities 42 U.S.C. § 1983)**

27 104. Defendants' wrongful conduct under of color of law occurred  
28

1 so that each defendant knowingly, grossly negligently, recklessly, and with  
2 deliberate indifference to the rights allegedly violated, caused to come into being,  
3 maintained, fostered, condoned, approved of, either before the fact or after the  
4 fact, ratified, and/or took no action to correct, an official policy, practice,  
5 procedure, or custom of permitting the occurrence of the categories of wrongs set  
6 forth in the immediately-preceding Count, and/or improperly, inadequately, with  
7 deliberate indifference to the constitutional or other federal rights of persons,  
8 grossly negligently, with reckless disregard to constitutional or other federal  
9 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or  
10 to take corrective action with respect to themselves and/or their personnel with  
11 respect to the types of wrongful conduct alleged in this pleading, so that each one  
12 of them is legally responsible for all of the injuries and/or damages sustained by  
13 plaintiffs' and class members, pursuant to the principles set forth in *Monell v.*  
14 *Dep't of Social Services* and its progeny. The enforcement of § 41.18 and the  
15 Zone ordinances are specific policies that are unconstitutional, and which harm the  
16 plaintiff and other homeless people.  
17  
18 //  
19 //  
20 //

21 **COUNT 6**

22 **(Conspiracy, against all defendants, in both their individual and official  
capacities, 42 U.S.C. § 1983)**

23 105. All defendants and each of them understood and agreed, and had a  
24 meeting of the minds, that they all would act in combination in the manners  
25 described hereinabove and then overt acts were undertaken to carry out their  
26 schemes, both hereinabove and hereinbelow.  
27  
28 //  
//

## COUNT 7

**(Fourteenth Amendment, Privileges and Immunities Abridgement Violations,  
against all defendants, in both their individual and official capacities, 42  
U.S.C. § 1983)**

106. The Privileges and Immunities Clause of the Fourteenth Amendment provides that "No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States."

106a. California Welfare & Institutions Code § 17000 provides that

every city . . . shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein . . . .

106b. This state law provides the substance of a privilege and immunity enjoyed under state law to plaintiffs' and class members, and defendants' conduct violates plaintiff's and class members' Fourteenth Amendment privileges and immunities rights (and this as well violates plaintiffs' and class members' rights to both equal protection and to due process).

106c. Plaintiff Finley is a citizen of Texas.

## COUNT 8

**(Monell Violations, against all defendants, in their official capacities, 42 U.S.C. § 1983)**

107. Defendants' wrongful conduct under of color of law occurred so that each defendant knowingly, grossly negligently, recklessly, and with deliberate indifference to the rights allegedly violated, caused to come into being, maintained, fostered, condoned, approved of, either before the fact or after the fact, ratified, and/or took no action to correct, an official policy, practice, procedure, or custom of permitting the occurrence of the categories of wrongs set forth in the immediately-preceding Count, and/or improperly, inadequately, with deliberate indifference to the constitutional or other federal rights of persons,

grossly negligently, with reckless disregard to constitutional or other federal rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or to take corrective action with respect to themselves and/or their personnel with respect to the types of wrongful conduct alleged in this pleading, so that each one of them is legally responsible for all of the injuries and/or damages sustained by plaintiffs and class members, pursuant to the principles set forth in *Monell v. Dep't of Social Services* and its progeny.

COUNT 9

**(Conspiracy, against all defendants, in both their individual and official capacities, 42 U.S.C. § 1983)**

108. All defendants and each of them understood and agreed, and had a meeting of the minds, that they all would act in combination in the manners described hereinabove and then overt acts were undertaken to carry out their schemes, both hereinabove and hereinbelow.

## COUNT 10

**(Eighth Amendment, Cruel and Unusual Punishments Infliction Violations,  
against all defendants in both their individual and official capacities, 42  
U.S.C. § 1983)**

109. The Eighth Amendment Cruel and Unusual Punishment Clause provides that "nor cruel and unusual punishments [may be] inflicted."

109a. The Eighth Amendment's Cruel and Unusual Punishment Clause prohibits the imposition, or threat to impose, penalties for sitting, or lying outside, or parking a motor vehicle on a public street, by unhoused persons who cannot obtain shelter, and whether these activities are defined as acts or conditions, they are inseparable from status, they are universal and unavoidable consequences of being human -- they are one and the same thing, and are involuntary conduct that is inseparable from status, because human beings are biologically compelled to rest, whether by sitting, lying, or sleeping, and all of these things must occur some

1 place, here in on sidewalks, on streets, and in vehicles that are banned by the  
2 subject ordinances.

3 109b. The City of Los Angeles may not, but in fact it does, criminalize  
4 and/or punish, threaten to punish, or attempt to punish the state of being unhoused  
5 in public places, nor may it criminalize conduct that is an unavoidable  
6 consequence of being unhoused.

7 109c. As long as there is no option of sleeping indoors, defendants may not  
8 criminalize indigent, unhoused persons for being outdoors, on public property,  
9 like streets, on the false premise that that they had a choice in the matter.

10 109d. Resisting the need to eat, sleep, or engage in other life-sustaining  
11 activities, is unavoidable human activity.

12 109e. Avoiding public streets when engaging in this otherwise innocent  
13 behavior also is impossible.

14 109f. Unhoused persons may not be punished, without the punishment  
15 being cruel and unusual, because such persons may not be convicted under the  
16 Eighth Amendment for innocent conduct.

17 109g. Prohibiting or interfering with sleeping in a public place as applied to  
18 unhoused persons is unconstitutional, as is the taking away of their property  
19 and/or housing.

20 109h. Here, defendants' application of their ordinances criminalizes  
21 conduct that is not criminal, and thus is unconstitutional.

22 109i. Ordinances that prevent the use of public property as a temporary or  
23 permanent place of dwelling, lodging, or residence, for storage of personal  
24 belongings, for cooking, or using temporary structures -- is unconstitutional.

25 109j. The subject ordinances and the conduct against plaintiff were and are  
26 aimed only at unhoused persons who live or who reside in the streets or on  
27 sidewalks, and, as such are unconstitutional.

1 109k. Section 41.18 criminalizes the state of being homeless.  
2

3 **COUNT 11**

4 **(Monell Violations, against all defendants, in their official capacities, 42  
U.S.C. § 1983)**

5 110. Defendants' wrongful conduct under of color of law occurred  
6 so that each defendant knowingly, grossly negligently, recklessly, and with  
7 deliberate indifference to the rights allegedly violated, caused to come into being,  
8 maintained, fostered, condoned, approved of, either before the fact or after the  
9 fact, ratified, and/or took no action to correct, an official policy, practice,  
10 procedure, or custom of permitting the occurrence of the categories of wrongs set  
11 forth in the immediately-preceding Count, and/or improperly, inadequately, with  
12 deliberate indifference to the constitutional or other federal rights of persons,  
13 grossly negligently, with reckless disregard to constitutional or other federal  
14 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or  
15 to take corrective action with respect to themselves and/or their personnel with  
16 respect to the types of wrongful conduct alleged in this pleading, so that each one  
17 of them is legally responsible for all of the injuries and/or damages sustained by  
18 plaintiffs' and class members, pursuant to the principles set forth in *Monell v.*  
19 *Dep't of Social Services* and its progeny.  
20

21 //

22 //

23 **COUNT 12**

24 **(Conspiracy, against all defendants, in their official capacities, 42 U.S.C. §  
1983)**

25 111. All defendants and each of them understood and agreed, and had a  
26 meeting of the minds, that they all would act in combination in the manners  
27 described hereinabove and then overt acts were undertaken to carry out their  
28 schemes, both hereinabove and hereinbelow.

1

2

## COUNT 13

### **(Eighth Amendment, Excessive Fines Imposition Violations, against all defendants in both their individual and official capacities, 42 U.S.C. § 1983)**

4

5

112. The Eighth Amendments' Excessive Fines Clause provides that "nor shall excessive fines [be] imposed."

6

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112a. A fine is "excessive" if it is not proportional to and related to the gravity of the offense that it is designed to punish.

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112b. The factors to be considered are the nature and extent of the underlying offense (none), whether the underlying offense is related to other illegal activities (none), whether other penalties may be imposed for the offense (none), and the extent of the harm caused by the offense (none). Here, defendants created and enforce ordinances to keep rich, habituated folks, who don't want to be bothered by seeing poor, unhoused folks who are forced to live on the sidewalks and streets and in vehicles, and none of the four, evaluative factors is applicable, so that the subject ordinances' and their enforcement -- by confiscating and stealing unhoused persons' property, and thus depriving a poor person or her or his home, is Nazi-esque, unfounded, draconian, and unconstitutional.

19

20

21

112c. The horror of a rich person having to endure seeing a poor person at all is not a legitimate reason for enforcement of the subject ordinances. It is an ugly, neighborhood beautification project.

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113d. Defendants' wrongful conduct, as set forth hereinabove is in violation of the Ninth Circuit's decision in *Pimentel v. City of Los Angeles*, 974 F.3d 917 (9th Cir. 2020) (Eighth Amendment's Excessive Fines Clause applies to municipal parking fines, notwithstanding that California changed its categorization of parking fines from criminal penalties to civil penalties), *as amended on denial of reh'g and reh'g en banc*, in which two of the City defendants' defense counsel herein, defendant Feuer and Gabriel Dermer, lost in the Ninth Circuit.

113e. Defendants theft and refusal to return plaintiff's property constitutes  
the imposition of an excessive fine.

113f. Section 41.18 criminalizes the condition of being homeless.

COUNT 14

**(Monell Violations, against all defendants, in their official capacities, 42 U.S.C. § 1983)**

113. Defendants' wrongful conduct under of color of law occurred so that each defendant knowingly, grossly negligently, recklessly, and with deliberate indifference to the rights allegedly violated, caused to come into being, maintained, fostered, condoned, approved of, either before the fact or after the fact, ratified, and/or took no action to correct, an official policy, practice, procedure, or custom of permitting the occurrence of the categories of wrongs set forth in the immediately-preceding Count, and/or improperly, inadequately, with deliberate indifference to the constitutional or other federal rights of persons, grossly negligently, with reckless disregard to constitutional or other federal rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or to take corrective action with respect to themselves and/or their personnel with respect to the types of wrongful conduct alleged in this pleading, so that each one of them is legally responsible for all of the injuries and/or damages sustained by plaintiff and class members, pursuant to the principles set forth in *Monell v. Dep't of Social Services* and its progeny.

COUNT 15

**(Conspiracy, against all defendants, in their official capacities, 42 U.S.C. § 1983)**

114. All defendants and each of them understood and agreed, and had a meeting of the minds, that they all would act in combination in the manners described hereinabove and then overt acts were undertaken to carry out their schemes, both hereinabove and hereinbelow.

1 115.-141. Reserved.

2 **COUNT 16**

3 **(Fourth Amendment Violations Under § 1983, Against All Defendants In Both  
Their Individual And Official Capacities)**

4 207. Plaintiff incorporates herein all of the material in the court's Nov. 11,  
5 2021 minute order and, based thereon and on the allegations set forth hereinabove,  
6 allege that defendants violated plaintiff's Fourth Amendment rights, and by virtue  
7 thereof, are liable to plaintiff for both injunctive relief and in damages. The minute  
8 order is consistent with other controlling Fourth Amendment jurisprudence.

9 Stealing plaintiff's property is a seizure, and "[a] seizure conducted without a  
10 warrant is per se unreasonable under the Fourth Amendment—subject only to a  
11 few specifically established and well delineated exceptions, and the burden is on  
12 the Government to persuade the district court that a seizure comes under one of a  
13 few specifically established exceptions to the warrant requirement." *United States  
14 v. Hawkins*, 249 F.3d 867, 872 (9th Cir. 2001) ("A seizure conducted without a  
15 warrant is 'per se' unreasonable under the Fourth Amendment—subject only to a  
16 few specifically established and well delineated exceptions.' *Minnesota v.  
17 Dickerson*, 508 U.S. 366, 372, 113 S.Ct. 2130, 124 L.Ed.2d 334 (1993) (internal  
18 quotation marks and citations omitted). The burden is on the Government to  
19 persuade the district court that a seizure comes "under one of a few specifically  
20 established exceptions to the warrant requirement." *United States v. Huguez–  
21 Ibarra*, 954 F.2d 546, 551 (9th Cir.1992).").

23 **COUNT 17**

24 **(*Monell* Violations, against all defendants, in their official capacities, 42  
U.S.C. § 1983)**

25 208. Defendants' wrongful conduct under of color of law occurred  
26 so that each defendant knowingly, grossly negligently, recklessly, and with  
27 deliberate indifference to the rights allegedly violated, caused to come into being,  
28

1 maintained, fostered, condoned, approved of, either before the fact or after the  
2 fact, ratified, and/or took no action to correct, an official policy, practice,  
3 procedure, or custom of permitting the occurrence of the categories of wrongs set  
4 forth in the immediately-preceding Count, and/or improperly, inadequately, with  
5 deliberate indifference to the constitutional or other federal rights of persons,  
6 grossly negligently, with reckless disregard to constitutional or other federal  
7 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or  
8 to take corrective action with respect to themselves and/or their personnel with  
9 respect to the types of wrongful conduct alleged in this pleading, so that each one  
10 of them is legally responsible for all of the injuries and/or damages sustained by  
11 plaintiffs and class members, pursuant to the principles set forth in *Monell v. Dep't*  
12 *of Social Services* and its progeny.  
13

**COUNT 18**

**(Conspiracy, against all defendants, in both their individual and official  
capacities, 42 U.S.C. § 1983)**

16 209. All defendants and each of them understood and agreed, and had a  
17 meeting of the minds, that they all would act in combination in the manners  
18 described hereinabove and then overt acts were undertaken to carry out their  
19 schemes, both hereinabove and hereinbelow.

20 [End of non-charging allegations, above, 1-18]

**COUNT 19**

**(Fourth Amendment, excessive force claims, against all defendants, in both  
their individual and official capacities, 42 U.S.C. § 1983)**

24 210. Defendants used excessive force against plaintiff by striking him with  
25 their baton(s), and thereby harmed, injured, and damaged plaintiff, caused him to  
26 be incarcerated for two months, and caused him to lose all of his earthly  
27 belongings, and they acted with spite and malice.  
28 //

COUNT 20

**(Fourth and Fourteenth Amendment, baseless prosecution claims, against all defendants, in both their individual and official capacities, 42 U.S.C. § 1983)**

211. Defendants baselessly and maliciously prosecuted plaintiff by: (1) initiating a Penal Code § 245(c) charge against him, without probable cause, (2) with malice, (3) that charge against plaintiff was dismissed, when a jury acquitted plaintiff after a trial, and (4) after three years that plaintiff spent in custody, and as a result defendants are liable to plaintiff for making a baseless and malicious criminal charge against plaintiff, thereby violating plaintiff's Fourth and Fourteenth Amendment rights.

212. By doing these things to plaintiff, defendants harmed, injured, and damaged plaintiff, caused him to be incarcerated for two months, and caused him to lose all of his earthly belongings, and they acted with spite and malice.

213.-272. Reserved.

# CLASS ACTION ALLEGATIONS

273. Plaintiff is a member of a class, whose defining characteristics are that he is an unhoused person who lived and lives on the streets and sidewalks of the City of Los Angeles, and whose personal property was stolen and never returned by City employees.

274. The class may contain about 45,252 people, and the class is so numerous so that joinder of all members is impracticable.

275. There are only common questions of fact and of law with respect to all class members of each class, who were prevented from existing at all and whose property was stolen, and who are in imminent jeopardy of being deprived of anywhere to exist at all, and whose members are in imminent jeopardy of being ousted from their habitations on the streets of the City of Los Angeles and their belongings, shelters, and property being stolen and/or taken away, to a place they physically are unable to reach, possibly to reclaim it.

1       276. The claims made by the representative party of the class, plaintiff, are  
2 typical of the claims of each class member.

3       277. The representative of the class, plaintiff, more than fairly, vigorously,  
4 and zealously will represent and adequately protect the interests of all class  
5 members, both themselves and through their zealous attorney.

6       278. Prosecution of separate actions by individual class members would  
7 create a risk of inconsistent and/or varying adjudications with respect to class  
8 members, which would establish incompatible standards for parties opposing the  
9 classes, and defendants have acted and will continue to act on grounds generally  
10 applicable to every class member in both classes, and the class questions not only  
11 predominate but are the only questions that exist, and this action is the far superior  
12 manner to other available methods for fairly and efficiently adjudicating the  
13 controversies.

14       279. Specifically, the class members' interests in individually controlling the  
15 prosecution or defense in separate actions do not exist, and there are no anticipated  
16 difficulties in managing this class action, especially as to identification of the  
17 amount of damages, identification of class members, and providing actual notice  
18 to virtually all class members.

19       280. Therefore, this action is maintainable under Fed. R. Civ. P. Rule 23(a),  
20 & 23(b)(1)(A),(B)(1), (2), and (3).

21       281. There would appear to be no notice requirement as to (B)(1) & (2)  
22 classes, the nature of the notice to be provided to class members would be decided  
23 by the court, at the appropriate time.

24       **WHEREFORE**, plaintiff and class members request relief against each  
25 defendant as follows:

26           1. Compensatory damages for all violations, in sums in excess of  
27 \$1,000,000.00, exclusive of costs and interest;

2. Punitive damages, in a sum to be determined by a jury, and as a percentage of the net worth of each defendant, in a sum sufficient to deter future misconduct, and not less than \$1,000,000.00 per defendant;
3. Injunctive relief, according to law;
4. The costs of action and interest;
5. Attorneys' fees; and,
7. Such other relief as is just and proper.

## JURY DEMAND

Plaintiff demands trial by jury of all issues.

**YAGMAN + REICHMANN, LLP**

By: /s/ Stephen Yagman  
**STEPHEN YAGMAN**